

## **§ 230.458**

## **30 CFR Ch. II (7–1–00 Edition)**

with the requirements of this subpart to recover the excess payment;

(2) Any person whose royalty obligation remains underpaid after such reconciliation must report the additional royalties due for the prior sales month on a Form MMS-2014 and pay interest on the underpayment from the last day of the month following the sales month until the date the additional royalties are paid; and

(3) All persons involved in such reconciliation must retain all documents pertaining to the reallocation of production, calculation of royalties due, and the subsequent reconciliation among the persons involved together with other records pertaining to production from that lease during the prior sales month and the royalty due and paid thereon, and make such documents available for review and audit in the same manner as other records pertaining to the lease.

(c) If persons who reported and paid royalty do not reconcile between themselves any differences in royalty payment obligations arising as a result of a reallocation as provided in paragraph (b) of this section, each person who pays royalties for the lease must report and pay any additional royalties due, or file a request for refund or credit in accordance with the requirements of this subpart to recover the excess payment, as applicable. Any person who reports additional royalties due for the prior sales month must pay interest pursuant to 30 CFR 218.54 on the underpayment from the last day of the month following the sales month until the date the additional royalties are paid.

### **§ 230.458 Unauthorized credit adjustments.**

(a) If a person reports a credit adjustment on Form MMS-2014 that results in a credit before MMS approves the recoupment pursuant to § 230.455, and if the credit adjustment does not qualify as one of the transactions not subject to section 10 as provided in § 230.461, then that person has taken an unauthorized credit adjustment.

(1) If the unauthorized credit adjustment recouped a payment that MMS received more than 2 years before the date MMS received the Form MMS-2014

which includes the unauthorized credit adjustment, the person must repay the amount recouped plus late payment interest determined pursuant to 30 U.S.C. 1721(a) and 30 CFR 218.150 from the date the unauthorized recoupment was taken until the date it is repaid. Unless the person filed a request for refund or credit pursuant to § 230.453 within 2 years of the making of the excess payment for which the unauthorized credit adjustment was reported, the excess payment is not subject to refund or recoupment.

(2) If the unauthorized credit adjustment recouped a payment that MMS received less than 2 years before the date MMS received the Form MMS-2014 with the unauthorized credit adjustment, the person must repay the amount recouped plus late payment interest determined pursuant to 30 U.S.C. 1721(a) and 30 CFR 218.150 from the date the unauthorized recoupment was taken until the date it is repaid. The report of the unauthorized credit adjustment on the Form MMS-2014 does not constitute a request for refund or credit that tolls the 2-year period in section 10(a), 43 U.S.C. 1339(a). The person may file a request for refund or credit pursuant to section 230.453 for the payment for which the unauthorized credit adjustment was reported. MMS will review the request pursuant to the requirements of this subpart only if the request for refund or credit is received within 2 years of the making of the original payment for which the unauthorized credit adjustment was reported.

(b) A person who reports an unauthorized credit adjustment to MMS on a Form MMS-2014 will be assessed \$500 for each unauthorized credit adjustment reported.

### **§ 230.459 Stopping or tolling of the section 10(a) 2-year period.**

(a) The period of 2 years from the making of the excess payment, within which a request for refund or credit must be filed under section 10(a), 43 U.S.C. 1339(a), will be:

(1) Tolloed by MMS's receipt of a substantially complete request for refund or credit pursuant to § 230.453; or

(2) Tolloed by a general tolling notice issued by MMS and published in the

FEDERAL REGISTER in circumstances where MMS believes a substantial number of requests for refund or credit could result as a consequence of a pending administrative or judicial proceeding or other action. The running of the 2-year period will be tolled for the time period specified in the notice; or

(3) Stopped by an application for unitization of OCS leases with respect to any excess payment that may result from the reallocation of production among leases after the unit or revision is approved; or

(4) Topped by a notice filed by a person at the address stated in § 230.453(f) stating that a specifically identified action or proceeding may result in payments made on an OCS lease becoming excess payments. The notice must include:

(i) A list of affected leases and sales months;

(ii) The specific action or proceeding that could result in payments becoming excess;

(iii) An estimate of the amount that could be subject to a request for refund or credit; and

(iv) The person's MMS-established payor code.

(b) A request for refund or credit that is filed timely by a person who made an excess payment on an OCS lease does not stop or toll the running of the 2-year period with respect to any excess payment made by any other person on that lease.

#### § 230.460 Lease suspension.

If MMS suspends an OCS lease pursuant to 30 CFR 250.10(b)(6), a person who has made excess rental payments for the period of suspension may request a refund or credit of any excess payments pursuant to this subpart. If the request for refund or credit is filed more than 2 years after MMS received the excess rentals, the excess payment will not be refunded, recouped, or credited against future rentals due on the same lease.

#### § 230.461 Transactions not subject to section 10.

(a) A request for refund of, or any other action to recover, excess payments made by a refiner/purchaser under a royalty-in-kind contract for

royalty oil produced from an OCS lease is not subject to section 10.

(b) If MMS approves a unit agreement on the OCS, or a revision to a unit, a person may file amended Forms MMS-2014 within the time period MMS prescribes, reallocating production among its affected leases. A person must file a request for refund or credit pursuant to this subpart only if, and to the extent that, there is a net reduction in the royalty that person previously paid for the leases committed to the unit as a result of the amendments.

(c) A person may amend Form MMS-2014 to adjust volume and royalty reports among OCS leases within a unit within the same sales month without filing a request for refund or credit pursuant to this subpart, except that a request for refund or credit must be filed to the extent that there is a net reduction in the royalty previously paid for the leases committed to the unit as a result of the amendments.

(d) A person who pays more money than the total royalty due as reported on the Form MMS-2014 accompanying the payment, where all amounts reported on the Form MMS-2014 are correct, may submit a request for refund of the overpaid amounts. The request for refund is not subject to section 10's requirements unless the Form MMS-2014 includes reports for only one OCS lease. Any overpayment subject to this paragraph may not be recovered by recoupment.

(e) A person may reduce an estimate balance, established for any lease product pursuant to MMS instructions, by submitting a credit adjustment on a Form MMS-2014, or a request for refund, for all or part of the established estimate balance. A credit adjustment or request for refund to recover all or part of an estimate balance authorized by this paragraph is not subject to the requirements of section 10.

(f)(1) If adjustment of an estimated oil transportation allowance or estimated gas transportation allowance pursuant to 30 CFR 206.105(e) and 206.157(e), respectively, results in an overpayment for any sales month because the estimated transportation costs were less than the actual costs, a person may submit a credit adjustment